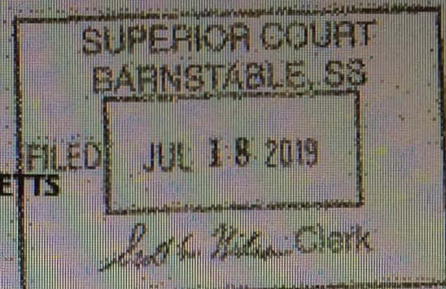


COMMONWEALTH OF MASSACHUSETTS



BARNSTABLE, SS.

SUPERIOR COURT

CIVIL ACTION

19CV372

STEVEN WLODKOWSKI,

COMPLAINT

Plaintiff

v.

TOWN OF EASTHAM PLANNING BOARD ET AL :

ARTHUR A. AUTORINO, 230 SHURTLEFF ROAD, EASTHAM, MA. 02642 – CHAIR

W. DAVIS HOBBS, 190 SPARROWHAWK LANE, EASTHAM, MA. 02642 – MEMBER

DENISE KOPASZ, 650 CABLE ROAD, EASTHAM, MA. 02642 – VICE CHAIR

JOSEPH MANAS, P.O. BOX 213, EASTHAM, MA. 02642 – CLERK

CRAIG NIGHTINGALE, 120 QUAIL COVER LANE, EASTHAM, MA. 02642 – MEMBER

PETER L. WESTON, P.O. BOX 1253, N. EASTHAM, MA. 02651 – MEMBER

DWIGHT WOODSON, 1945 MASSASOIT ROAD, EASTHAM, MA. 02642 – MEMBER

LAUREN BARKER, 130 HELM ROAD, EASTHAM, MA. 02642 – ALTERNATE

SALTY FARMERS LLC, 25 NOONS DRIVE, N. TRURO, MA. 02652 – APPLICANT (CASE NUMBERS
PB2019-7, PB2019-8)

(Continued on Page 2)

EMERALD GROVE INC, 31 SADIES WAY, HARWICH, MA. 02645 – APPLICANT (CASE NUMBER PB2019-11)

FARRELL ELECTRIC INC, P.O. BOX 1840, N. EASTHAM, MA. 02651- OWNER (CASE NUMBER PB2019-7)

FLEISHER ENTERPRISES LLC, P.O. BOX 253, N. EASTHAM, MA. 02651 – OWNER (CASE NUMBER PB2019-8)

KATRINA BOUCHER, P.O. BOX 112, E. ORLEANS, MA. 02643 – OWNER (CASE NUMBER PB2019-11)

Defendants

INTRODUCTION

1. By this complaint, Plaintiff Steven Wlodkowski (" Wlodkowski ") seeks relief from the Special Permit Approvals decided by the Town of Eastham Planning Board ("SPGA") in Case Numbers PB2019-7, PB2019-8, and PB2019-11.
2. As more fully set forth below, the decision to approve Case Numbers PB2019-7, PB2019-8, and PB2019-11 exceeds the authority of the SPGA.

PARTIES AND JURISDICTION

3. Plaintiff Steven Wlodkowski is an individual residing at 195 Sparrowhawk Lane, Eastham, Barnstable County, Massachusetts.
4. Defendant SPGA receives their authority by the Eastham Town Charter Section 9-5-10.

5. The Town of Eastham is a Municipal Corporation located in Barnstable County, Massachusetts.

6. This Court has jurisdiction over the SPGA because it conducts business and / or operates in the Commonwealth of Massachusetts.

7. Venue in this Court is proper to M.G.L. c. 40A section 17.

FACTUAL ALLEGATIONS

8. The SPGA is bound by the Town of Eastham Zoning By – Laws Revisions Through October 15, 2018 (By – Laws).

9. Section XXIII – Marijuana Regulations, accepted at Annual Town Meeting May 7, 2018 Article 23 are part of and are included in said By – Laws.

10. Said By – Laws contain Section III known as " Definitions ".

11. The definition of what constitutes a " Park " or a " Playground " is not contained in Section III " Definitions ".

12. The Village at Nauset Green is a 65 unit affordable housing complex currently under construction by Pennrose Development at 140 Brackett Road, Eastham, MA.

13. Pennrose Development received a Comprehensive Permit to construct the 40B project from the Eastham Zoning Board of Appeals in March 2017.

14. Construction of the project began on December 7, 2018 with a Building Permit issued by the Town of Eastham based on an Approved Site Plan.

15. The Approved Site Plan includes a playground to be constructed as part of the project.

16. Applications for rental units at the Village at Nauset Green are currently being accepted.
17. Occupancy is scheduled to begin in October 2019.
18. The Village at Nauset Green by virtue of it being a housing complex is an area where minors will congregate.
19. Defendant SPGA was fully aware of the nature of the project known as the Village at Nauset Green, its 40B designation, and its pre-existence by virtue of its permitting, construction, and occupancy schedule prior to and during the Special Permit approval process.
20. The Cape Cod Rail Trail (CCRT) is listed as a Massachusetts state park by the Massachusetts Department of Conservation and Recreation (DCR) in their alphabetical listing of state parks.
21. The CCRT by its nature as a public park is an area where minors will congregate.
22. Defendant SPGA was fully aware of the pre-existence and location of the CCRT, a DCR recognized Massachusetts state park prior to and during the Special Permit approval process.
23. The Idle Times Bike Shop Inc. is located at 188 Brackett Road, Eastham, MA.
24. The Idle Times Bike Shop Inc. by its nature is an area where minors will congregate.
25. Defendant SPGA was fully aware of the pre-existence and location of the Idle Times Bike Shop Inc. at 188 Brackett Road prior to and during the Special Permit approval process.
26. The SPGA conducted a Public Hearing on June 19, 2019 at which time Case Numbers PB2019-7 and PB2019-8 were presented by Defendant Salty Farmers LLC., and public comment was received. Four individuals spoke in opposition to the cases, one in favor, and one letter of opposition was read into the record.
27. At said Public Hearing, Case Number PB2019-11 was presented by Defendant Emerald Grove Inc., and public comment was received. One individual spoke in opposition to the case.

28. The SPGA unanimously approved said cases and their decision was filed with the Eastham Town Clerk on June 28, 2019.

CLAIMS

COUNT I

The Defendant SPGA exceeded their authority by approving Special Permit Application Case Number PB2019-7.

29. Wlodkowski restates and incorporates by reference the allegations as set forth above as fully set forth herein.

30. The Defendants Salty Farmers LLC. applied for a Special Permit to site a Recreational Marijuana Enterprise (RME) for marijuana cultivation at 120 Holmes Road, Eastham, MA. Case Number PB2019-7.

31. The proposed RME location is owned by Defendant Farrell Electric Inc.

32. The proposed RME as located will be a direct abutter to the Village at Nauset Green .

33. The proposed RME as located will have an adverse impact on the adjacent property, playground, and locations where minors congregate in violation of the By-Laws, Section XXIII, Marijuana Regulations, Paragraph A.

34. The proposed RME as located is within the 500 foot buffer to the playground at the Village at Nauset Green in violation of the By-Laws, Section XXIII, Marijuana Regulations, Paragraph E, Line 1.

35. The proposed RME as located is within the 500 foot buffer to the CCRT a public park as recognized by the DCR in violation of the By-Laws, Section XXIII, Marijuana Regulations,

Paragraph E, Line 1.

36. The Defendant SPGA has exceeded their authority by approving the Defendant Salty Farmers LLC Special Permit Application Case Number PB2019-7 by their arbitrary, discriminatory, and predatory exercise of judgement in applying the Zoning By-Laws, Section XXIII, Marijuana Regulations to the facts.

COUNT II

The Defendant SPGA exceeded their authority by approving Special Permit Application Case Number PB2019-8.

37. Wlodkowski restates and incorporates the allegations as set forth above as fully as set forth herein.

38. The Defendant Salty Farmers LLC. applied for a Special Permit to site an RME for the retail sale of marijuana at 182 Brackett Road, Eastham, MA. Case Number PB2019-8.

39. The proposed RME location is owned by Defendant Fleisher Enterprises LLC.

40. The proposed RME as located will have an adverse impact on the Village at Nauset Green, the playground within, and locations where minors congregate in violation of the By-Laws, Section XXIII, Marijuana Regulations, Paragraph A.

41. The proposed RME as located will have an adverse impact on an area where minors congregate due to its proximity to The Idle Times Bike Shop at 188 Brackett Road in violation of the By-Laws, Section XXIII, Marijuana Regulations, Paragraph A.

42. The proposed RME as located is within the 500 foot buffer to the playground at the Village at Nauset Green in violation of the By-Laws, Section XXIII, Marijuana Regulations, Paragraph E, Line 1.

43. The proposed RME as located is within the 500 foot buffer to the CCRT a public park as recognized by the DCR in violation of the By-Laws, Section XXIII, Marijuana Regulations, Paragraph E, Line 1.

44. The Defendant SPGA has exceeded their authority by approving the Defendant Salty Farmers LLC. Special Permit Application Case Number PB2019-8 by their arbitrary, discriminatory, and predatory exercise of judgement in applying the Zoning By-Laws, Section XXIII, Marijuana Regulations to the facts.

COUNT III

The Defendant SPGA exceeded their authority by approving Special Permit Application Case Number PB2019-11.

45. Wlodkowski restates and incorporates the allegations as set forth above as fully as set forth herein.

46. The Defendant Emerald Grove Inc. applied for a Special Permit to site an RME for the retail sale of marijuana and to modify the Special Permit granted under Case Number PB2018-14 to co-locate the Medical Marijuana Treatment Center Dispensary / Retail (MMTCDR) with the proposed recreational use.

47. The proposed RME and modification to Case Number PB2018-14 location is owned by Defendant Katrina Boucher.

48. The proposed RME as located will be a direct abutter to the Village at Nauset Green.

49. The proposed RME as located will have an adverse impact on the Village at Nauset Green, the playground within, and locations where minors congregate in violation of the By-Laws,

Section XXIII, Marijuana Regulations, Paragraph A.

50. The proposed RME is within the 500 foot buffer of the playground at the Village at Nauset Green in violation of the By-Laws, Section XXIII, Marijuana Regulations, Paragraph E, Line 1.

51. The Defendant SPGA has exceeded their authority by approving the Defendant Emerald Grove Inc. Special Permit Application Case Number PB2019-11 by their arbitrary, discriminatory, and predatory exercise of judgement in applying the Zoning By-Laws, Section XXIII, Marijuana Regulations.

PRAYERS FOR RELIEF

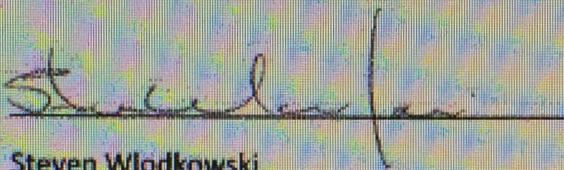
WHEREFORE, Plaintiff respectfully requests that this Honorable Court:

1. Enter judgement in Plaintiff's favor on Counts I through III of the Complaint;
2. Declare that the Defendant SPGA's decision to approve Defendant Salty Farmers LLC. Application for Special Permit Case Number PB2019-7 be annulled.
3. Declare that the Defendant SPGA's decision to approve Defendant Salty Farmers LLC. Application for Special Permit Case Number PB2019-8 be annulled.
4. Declare that the Defendant SPGA's decision to approve Defendant Emerald Grove Inc. Application for Special Permit Case Number PB2019-11 be annulled.
5. Award such other relief as this Honorable Court deems just and fair.

-9-

Respectfully submitted,

Plaintiff, Steven Wlodkowski

A handwritten signature in dark ink, appearing to read 'Steven Wlodkowski', is written over a horizontal line.

Steven Wlodkowski

195 Sparrowhawk Lane

Eastham, MA. 02642

(508) 246-4852

highwaysupt@yahoo.com

Dated: July 18, 2019



TOWN OF EASTHAM

2500 State Highway, Eastham, MA 02642-2544

All departments: 508-240-5000 • Fax 508-240-1295

www.eastham-ma.gov

COMMONWEALTH OF MASSACHUSETTS TOWN OF EASTHAM PLANNING BOARD DECISION

120 HOLMES ROAD
MAP 8, PARCEL 168A

CASE NO. PB2019-7
OWNER: Farrell Electric Inc.
APPLICANT: Salty Farmers LLC
P.O. Box 726
North Truro, MA 02652

HEARING DATE: May 15, 2019

DECISION DATE: June 19, 2019

A TRUE COPY ATTEST

TOWN CLERK
EASTHAM

CONTINUATION DATE: June 19, 2019

FILING DATE: June 28, 2019

At a public hearing held on June 19, 2019 the Town of Eastham Planning Board, acting in the matter of Case No. PB2019-7 **VOTED** to **GRANT SITE PLAN APPROVAL – SPECIAL PERMIT** under Eastham Zoning By-Law Section XXIII C.3 (Marijuana Regulations) to establish a Recreational Marijuana Establishment (RME) for marijuana cultivation.

Plans Reviewed:

"Site Plan Showing Proposed Addition to Existing Commercial Building" prepared for Salty Farmers, LLC by East Cape Engineering, Inc., dated 7/13/18 rev. 5/14/19, scale 1" = 30'.

"Proposed Addition for: Tim Farrell" sheets A1-3, prepared by dq House Plans, dated 7/19/18 rev. 2/25/19, scale as noted.

"Farrell Building Addition" sheets G1.0-1.2, prepared by McKenzie Engineering Consultants, dated 3/5/19, not to scale.

Findings of Fact:

1. The applicant has applied for Site Plan Approval – Special Permit pursuant to Eastham Zoning By-Law Section XXIII C.3 (Marijuana Regulations) to establish a Recreational Marijuana Establishment (RME) for marijuana cultivation.
2. The property is located at 120 Holmes Road (Map 8, Parcel 168A) and is located in the Trade Park District.
3. The proposed marijuana cultivation facility is a permitted use within the Trade Park District.
4. The proposal does comply with all applicable standards and requirements of the Eastham Corridor Special District.
5. The proposal does have beneficial impacts on economic or community needs. The Host Community Agreement dated May 9, 2019, contains several items which the Planning Board considers beneficial including:
 - Community Impact Fee payments to the Town in the amount equal to 3% of gross sales
 - Revenue to the Town generated by local tax and utility payments

- Priority support to local businesses, suppliers, contractors and vendors for the provision of goods and services related to the operation of the proposed facility
6. The proposal does not have negative impacts to traffic flow and safety concerns, including Route 6 access limitations and preference for shared curb cuts with adjacent uses, provision of sidewalks and pedestrian amenities, and no parking in the front yard setback area. The site has a shared access with the adjacent property to the south. Traffic is able to move freely between the two properties. The site is located in an industrial area and along a private road where normal pedestrian activity is not anticipated and the need for sidewalks and pedestrian amenities is not anticipated. The proposed facility will not be accessible to the general public and customer services will not take place on the site.
 7. The proposal does provide adequate provision for utilities and other public services. No negative impacts associated with existing or proposed utilities have been identified.
 8. The proposal does not have negative impacts on neighborhood character, including all dimensional requirements and landscape buffers along Route 6. The proposed 40' x 50' addition will comply with setback and building height standards. Landscape buffers to Route 6 are not applicable to this proposal. The proposed use and proposed building are both appropriate to the surrounding neighborhood which is part of an established industrial area.
 9. The proposal does not have negative impacts on the natural environment. The site is located within the Groundwater Protection District. All uses permitted in the underlying zoning districts are permitted in the Groundwater Protection District except those specifically prohibited in Section 6 of the Bylaw. The proposed use does not fall under any of the prohibited use categories listed in Section 6. The site is not located within any resource areas. No adverse environmental impacts are anticipated.
 10. The proposal does have beneficial fiscal impacts, including impacts on town services, the tax base and employment. The applicant has secured a Host Community Agreement with the Board of Selectmen dated May 9, 2019. The agreement contains several items which the Planning Board considers to be beneficial including:
 - Community Impact Fee payments in the amount equal to 3% of gross sales. Impact fees may be used to assist the Town in addressing any public health, safety or other effects or impacts that the proposed facility may have on Town programs or services
 - Revenue to the Town generated by local tax and utility payments
 - Priority support to local businesses, suppliers, contractors and vendors for the provision of goods and services related to the operation of the proposed facility
 - Anticipated hiring of 10-15 employees
 11. The proposal does adequately address shared on-site parking. The site has shared access with the adjacent property to the south. The informal parking areas spread across the two sites are shared by the businesses utilizing the sites.
 12. The proposal does adequately address building design standards of the Eastham Corridor Special District. The proposed building will comply with the building height limit (28 ft where 30 ft is permitted). The proposed building will comply with the maximum building footprint requirement (4,400 total combined area where 10,000 sf is permitted). The façade variation requirement is not applicable to the Trade Park District.
 13. The Planning Board voted to grant the following waivers:
 - Approved Security Plan
 - Schedule of Construction Procedures
 - Maximum lot coverage requirement

14. Four abutters appeared in opposition to the proposal. One abutter appeared in favor of the proposal. One letter was received in opposition to the proposal.

A **MOTION** by Denise Kopasz to approve the findings of fact as stated, **seconded** by Craig Nightingale.

In favor: Woodson, Autorino, Nightingale, Manas, Weston, Kopasz, Hobbs

Opposed: None

The **VOTE**: 7-0

Motion passed – Unanimous

Conditions:

1. No building permit shall be issued until the application complies with all pertinent sections of the Town of Eastham Zoning Bylaw.
2. The applicant shall verify with the Eastham Board of Health that the existing wastewater system is adequate for the proposed use and if necessary shall obtain Board of Health approval prior to issuance of a building permit.
3. The applicant shall provide a copy of the approved security plan to the Eastham Police Department prior to the start of cultivation operations on the site.
4. Exterior lights shall be down shielded to reduce light spill and nuisances to adjacent properties.
5. Any changes to the project site plans dated 7/13/18 rev. 5/14/19 or the building plans dated 7/19/18 rev. 2/25/19 except those that are de minimis must be reviewed by the Planning Board. If the Board finds a change to be substantial, re-notice is necessary for a new hearing.
6. The applicant shall coordinate with the Eastham Police Department and other pertinent town officials as needed to review operational procedures and address any concerns.
7. The Special Permit shall have a term limited to the duration of Salty Farmers' ownership and/or use of the premises for Retail Recreational Marijuana Establishment (RME) as licensed by the applicable Massachusetts licensing authority. In the event Salty Farmers Inc. seeks a new RME license or to transfer its existing license to a new owner or new location, the applicant shall file with the Planning Board for a new Special Permit or modification of existing Special Permit.
8. The Planning Board reserves the right to monitor the ongoing construction for compliance with the approved plan.

A **MOTION** by Dwight Woodson to approve the conditions as stated, **seconded** by Denise Kopasz

In favor: Woodson, Autorino, Nightingale, Manas, Weston, Kopasz, Hobbs

Opposed: None

The **VOTE**: 7-0

Motion passed – Unanimous

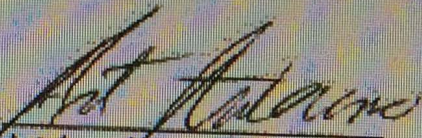
A **MOTION** by Denise Kopasz to **GRANT** Site Plan Approval – Special Permit for Case No. PB2019-7 to establish a Recreational Marijuana Establishment (RME) for marijuana cultivation, **seconded** by Dwight Woodson

In favor: Woodson, Autorino, Nightingale, Manas, Weston, Kopasz, Hobbs

Opposed: None


The **VOTE**: 7-0

Motion passed – Unanimous


Art Autorino, Chair
Eastham Planning Board

THIS DECISION HAS BEEN FILED WITH THE TOWN CLERK. APPEALS TO THIS DECISION MAY BE MADE BY ANY PERSON AGGRIEVED PURSUANT TO M.G.L. CHAPTER 40A BY FILING SAID APPEAL WITH THE TOWN CLERK WITHIN TWENTY (20) DAYS OF THE DATE THIS DECISION WAS FILED.

Date Filed: June 28, 2019


Susanne Fischer, Town Clerk

This is to certify that twenty (20) days have elapsed after this decision was filed and no appeal has been filed.

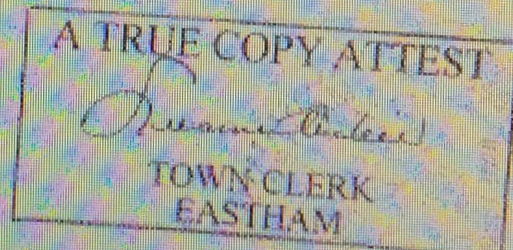
Date: _____

Susanne Fischer, Town Clerk

This is to certify an appeal has been filed within twenty (20) days of filing this decision.

Date: _____

Susanne Fischer, Town Clerk





TOWN OF EASTHAM

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COMMONWEALTH OF MASSACHUSETTS TOWN OF EASTHAM PLANNING BOARD DECISION

**182 BRACKETT ROAD
MAP 8, PARCEL 188B**

CASE NO. PB2019-8
OWNER: Fleischer Enterprises LLC
APPLICANT: Salty Farmers LLC
P.O. Box 726
North Truro, MA 02652

HEARING DATE: May 15, 2019
DECISION DATE: June 19, 2019

CONTINUATION DATE: June 19, 2019
FILING DATE: June 28, 2019

A TRUE COPY ATTEST

TOWN CLERK
EASTHAM

At a public hearing held on June 19, 2019 the Town of Eastham Planning Board, acting in the matter of Case No. PB2019-8 **VOTED to GRANT SITE PLAN APPROVAL – SPECIAL PERMIT** under Eastham Zoning By-Law Section XXIII C.3 (Marijuana Regulations) to establish a Recreational Marijuana Establishment (RME) for marijuana retail.

Plans Reviewed:

"Site Plan Showing Existing Conditions: 182 Brackett Road, Eastham, MA" prepared for Salty Farmers by East Cape Engineering, Inc., dated 4/11/19 rev. 5/14/19, scale 1" = 30'.
"Floor Plan For: Salty Farmers" prepared by dq House Plans, dated 4/29/19, scale 3/16" = 1'-0".

Findings of Fact:

1. The property is located at 182 Brackett Road (Map 8, Parcel 188B) and is located in the Transition Commercial District.
2. The applicant has applied for Site Plan Approval – Special Permit pursuant to Eastham Zoning By-Law Section XXIII C.3 (Marijuana Regulations) to establish a Recreational Marijuana Establishment (RME) for marijuana retail.
3. The proposed Recreational Marijuana Establishment (RME) is a permitted use within the Transition Commercial District.
4. The proposal does not comply with all standards and requirements of the Eastham Corridor Special District. The proposal requires a Special Permit for the proposed recreational marijuana facility use. The site and structure are pre-existing non-conforming to the development standards of the zoning district. The applicant is not proposing any changes to the site or exterior of the building that would trigger full compliance with pertinent dimensional standards of the Eastham Corridor Special District.

5. The proposal does have beneficial impacts on economic or community needs. The Host Community Agreement dated May 9, 2019, contains several items which the Planning Board considers beneficial including:
 - Community Impact Fee payments to the Town in the amount equal to 3% of gross sales
 - Revenue to the Town generated by local tax and utility payments
 - Priority support to local businesses, suppliers, contractors and vendors for the provision of goods and services related to the operation of the proposed facility
6. The proposal does not have negative impacts to traffic flow and safety concerns, including Route 6 access limitations and preference for shared curb cuts with adjacent uses, provision of sidewalks and pedestrian amenities, and no parking in the front yard setback area. The traffic impact assessment provided by the applicant concludes that the proposal is unlikely to have substantial impacts on traffic operations within the study area which includes the Route 6/Brackett Road intersection. The report was peer reviewed by the Cape Cod Commission. The peer review found the conclusions reached in the study are reasonable based on the data presented. The Board also finds the provision for appointment-only service and an on-site parking attendant during operating hours will be adequate to manage the traffic entering and exiting the site.
7. The proposal does provide adequate provision for utilities and other public services. No changes to the existing utilities are proposed at this time. The site is not connected to the municipal water system but water service is available to the site.
8. The proposal does not have negative impacts on neighborhood character, including all dimensional requirements and landscape buffers along Route 6. The proposed Recreational Marijuana Establishment (RME) is a permitted use in the Transition Commercial District. The applicant is not proposing any changes to the site or exterior of the building that would trigger full compliance with pertinent dimensional standards of the Eastham Corridor Special District. Landscape buffers along Route 6 are not applicable to this proposal.
9. The proposal does not have negative impacts on the natural environment. The site is located within the Groundwater Protection District. All uses permitted in the underlying zoning districts are permitted in the Groundwater Protection District except those specifically prohibited in Section 6 of the Groundwater Protection Bylaw. The proposed use does not fall under any of the prohibited use categories listed in Section 6 of the bylaw. The site is not located within any resource areas. No adverse environmental impacts are anticipated.
10. The proposal does have beneficial impacts, including impacts on town services, the tax base and employment. The applicant has secured a Host Community Agreement with the Board of Selectmen dated May 9, 2019. The agreement contains several items which the Planning Board considers to be beneficial including:
 - Community Impact Fee payments in the amount equal to 3% of gross sales. Impact fees may be used to assist the Town in addressing any public health, safety or other effects or impacts that the proposed facility may have on Town programs or services
 - Revenue to the Town generated by local tax and utility payments
 - Priority support to local businesses, suppliers, contractors and vendors for the provision of goods and services related to the operation of the proposed facility
 - Anticipated hiring of 10-15 employees
11. The proposal does adequately address shared on-site parking. The 27 parking spaces on the site comply with minimum bylaw standards. The provision for appointment-only service and

an on-site parking attendant during operating hours will be adequate to manage the traffic entering and exiting the site in a safe and efficient manner.

12. The proposal does not adequately address building design standards of the Eastham Corridor Special District. The building is pre-existing non-conforming to current building design standards. The applicant is not proposing any changes to the exterior of the building that would trigger compliance with current standards of the zoning district.
13. The Planning Board voted to grant a waiver from the requirement to submit an approved security plan to the Police Chief and Fire Chief prior to the granting of a Special Permit.
14. Four abutters appeared in opposition to the proposal. One abutter appeared in favor of the proposal. One letter was received in opposition to the proposal.

A MOTION by Denise Kopasz to approve the findings of fact as stated, **seconded** by Craig Nightingale.

In favor: Woodson, Autorino, Nightingale, Manas, Weston, Kopasz, Hobbs

Opposed: None

The VOTE: 7-0

Motion passed – Unanimous

A MOTION by Craig Nightingale to **GRANT** Site Plan Approval – Special Permit for Case No. PB2019-8 with the following conditions:

1. No building permit shall be issued until the application complies with all pertinent sections of the Town of Eastham Zoning By-Law.
2. The applicant shall verify with the Eastham Board of Health that the existing wastewater system is adequate for the proposed use and if necessary shall obtain Board of Health approval prior to the issuance of a building permit.
3. The applicant shall provide a copy of the approved security plan to the Eastham Police Department prior to the start of retail operations.
4. Exterior lights shall be down shielded to reduce light spill and nuisances to adjacent properties.
5. Any changes to the project site plans dated 4/11/19 rev. 5/14/19 and the building plans dated 4/29/19 except those that are de minimis must be reviewed by the Planning Board. If the Board finds a change to be substantial, re-notice is necessary for a new hearing.
6. The applicant shall coordinate with the Eastham Police Department to review operational procedures and shall meet with the Police Department quarterly during the first year of operation to review parking and/or traffic concerns.
7. The applicant shall install stop signs and stop bars at both driveway exits on the site.
8. The applicant shall operate under an appointment-only schedule for the first year of operation. Discontinuance of the appointment-only schedule shall require notification and agreement with the Town of Eastham through the Board of Selectmen or the Board's designee.
9. The Special Permit shall have a term limited to the duration of Salty Farmers' ownership and/or use of the premises for a Retail Recreational Marijuana Establishment (RME) as licensed by the applicable Massachusetts licensing authority. In the event Salty Farmers Inc. seeks a new RME license or to transfer its existing license to a new owner or new location, the applicant shall file with the Planning Board for a new Special Permit or modification of existing Special Permit.

10. The Planning Board reserves the right to monitor the ongoing construction for compliance with the approved plan.
11. The applicant shall return to the Planning Board within six months from the start of operations to report on site operations. The applicant shall provide the Board with evidence of a good faith effort to secure approval from the condominium ownership for site improvements related to parking, traffic management and landscaping.

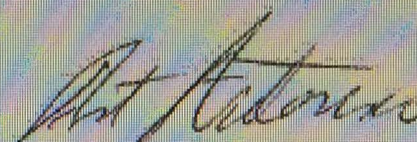
Seconded by Dwight Woodson

In favor: Woodson, Autorino, Nightingale, Manas, Weston, Kopasz, Hobbs

Opposed: None

The VOTE: 7-0

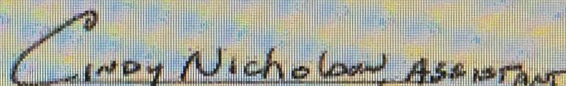
Motion passed - Unanimous



Art Autorino, Chair
Eastham Planning Board

THIS DECISION HAS BEEN FILED WITH THE TOWN CLERK. APPEALS TO THIS DECISION MAY BE MADE BY ANY PERSON AGGRIEVED PURSUANT TO M.G.L. CHAPTER 40A BY FILING SAID APPEAL WITH THE TOWN CLERK WITHIN TWENTY (20) DAYS OF THE DATE THIS DECISION WAS FILED.

Date Filed: June 28, 2019


Cindy Nicholson Assistant
Susanne Fischer, Town Clerk

This is to certify that twenty (20) days have elapsed after this decision was filed and no appeal has been filed.

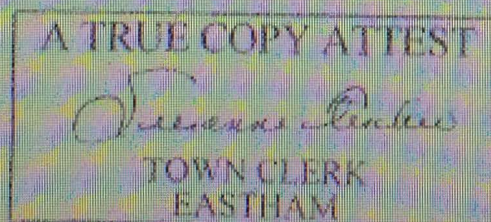
Date: _____

Susanne Fischer, Town Clerk

This is to certify an appeal has been filed within twenty (20) days of filing this decision.

Date: _____

Susanne Fischer, Town Clerk





TOWN OF EASTHAM

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COMMONWEALTH OF MASSACHUSETTS TOWN OF EASTHAM PLANNING BOARD DECISION

**3 MAIN STREET UNIT 1
MAP 8, PARCEL 140A**

CASE NO. PB2019-11
OWNER: Katrina Boucher
APPLICANT: Emerald Grove, Inc.
31 Sadies Way
Harwich, MA 02645

HEARING DATE: June 19, 2019

FILING DATE: June 28, 2019

DECISION DATE: June 19, 2019

A TRUE COPY ATTEST

**TOWN CLERK
EASTHAM**

At a public hearing held on June 19, 2019 the Town of Eastham Planning Board, acting in the matter of Case No. PB2019-11 **VOTED to GRANT SITE PLAN APPROVAL – SPECIAL PERMIT** under Eastham Zoning By-Law Section XXIII C.3 (Marijuana Regulations) to establish a Recreational Marijuana Establishment (RME) for marijuana retail and to modify the Special Permit granted under Case No. PB2018-14 to co-locate the Medical Marijuana Treatment Center Dispensary/Retail (MMTCDR) with the proposed recreational use.

Plans Reviewed:

"Illustrative Sketch Plan Showing General Site Layout" prepared by Coastal Engineering Co., dated 5/7/19 rev. 6/7/19, scale 1" = 30'.

"Floor Plans – Proposed" prepared by Caldwell Architectural Associates, dated 5/7/19, scale 1/4" = 1'.

"Building Elevations – Proposed" prepared by Caldwell Architectural Associates, dated 5/9/19, scale 1/4" = 1'.

Findings of Fact:

1. The applicant has applied for Site Plan Approval – Special Permit pursuant to Eastham Zoning By-Law Section XXIII C.3 (Marijuana Regulations) to establish a Recreational Marijuana Establishment (RME) for marijuana retail and to modify the Special Permit granted under Case No. PB2018-14 to co-locate the Medical Marijuana Treatment Center Dispensary/Retail (MMTCDR) with the proposed recreational use.
2. The property is located at 3 Main Street (Map 8, Parcel 140A) and is located in the Transition Commercial District.
3. The proposed Retail Recreational Marijuana (RME) facility and Medical Marijuana Treatment Center (MMTCDR) are permitted uses within the Transition Commercial District.

4. The proposal does comply with all applicable standards and requirements of the Eastham Corridor Special District. The proposed alterations to the site are designed to meet accessibility requirements of the MA State Building Code.
5. The proposal does have beneficial impacts on economic or community needs. The Host Community Agreement dated April 19, 2019, contains several items which the Planning Board considers beneficial including:
 - Community Impact Fee payments to the Town in the amount equal to 3% of gross sales
 - Revenue to the Town generated by local tax and utility payments
 - Priority support to local businesses, suppliers, contractors and vendors for the provision of goods and services related to the operation of the proposed facility
6. The proposal does not have negative impacts to traffic flow and safety concerns, including Route 6 access limitations and preference for shared curb cuts with adjacent uses, provision of sidewalks and pedestrian amenities, and no parking in the front yard setback area. The traffic impact assessment provided by the applicant concludes that the project can be accommodated within the confines of the existing transportation infrastructure. The report was peer reviewed by the Cape Cod Commission. The peer review found that the conclusion reached in the study is reasonable based on the data presented. The Board also finds that the provision for appointment-only service and an on-site parking attendant during operating hours will be adequate to manage the traffic entering and exiting the site.
7. The proposal does provide adequate provision for utilities and other public services. No changes to the existing utilities are proposed at this time. Municipal water service is available to the site.
8. The proposal does not have negative impacts on neighborhood character, including all dimensional requirements and landscape buffers along Route 6. The proposed Retail Recreational Marijuana (RME) facility and Medical Marijuana Treatment Center (MMTCDR) are permitted uses within the Transition Commercial District. The site currently has adequate landscape buffers that meet the design standards along Route 6.
9. The proposal does not have negative impacts on the natural environment. The site is located within the Groundwater Protection District. The proposed use does not fall under any of the prohibited use categories listed in the Bylaw. The site is not located within any resource areas. No adverse environmental impacts are anticipated.
10. The proposal does have beneficial fiscal impacts, including impacts on town services, the tax base and employment. The applicant has secured a Host Community Agreement with the Board of Selectmen dated April 19, 2019. The agreement contains several items which the Planning Board considers to be beneficial including:
 - Community Impact Fee payments in the amount equal to 3% of gross sales. Impact fees may be used to assist the Town in addressing any public health, safety or other effects or impacts that the proposed facility may have on Town programs or services
 - Revenue to the Town generated by local tax and utility payments
 - Priority support to local businesses, suppliers, contractors and vendors for the provision of goods and services related to the operation of the proposed facility
 - Anticipated hiring of 10-15 employees
11. The proposal does adequately address shared on-site parking. The 95 parking spaces on the site meets the minimum parking requirements of the bylaw and based on the traffic impact assessment provided by the applicant, the spaces will provide ample parking for the anticipated parking demand of the proposed use and existing shared uses on the site.

12. The proposal does not adequately address building design standards of the Eastham Corridor Special District. There are no design standards pertinent to the specific changes proposed for the site.
13. The Planning Board voted to grant the following waivers:
 - Formal Site Plan Submission
 - Approved Security Plan
 - Schedule of Construction Procedures
14. One abutter appeared in opposition to the proposal. No letters were received regarding the proposal.

A **MOTION** by Peter Weston to approve the findings of fact as stated, **seconded** by Craig Nightingale.

In favor: Woodson, Autorino, Nightingale, Manas, Weston, Barker, Hobbs

Opposed: None

The VOTE: 7-0

Motion passed – Unanimous

Conditions:

1. No building permit shall be issued until the application complies with all pertinent sections of the Town of Eastham Zoning By-Law.
2. The applicant shall verify with the Eastham Board of Health that the existing wastewater system is adequate for the proposed use and if necessary shall obtain Board of Health approval prior to issuance of a building permit.
3. The applicant shall provide a copy of the approved security plan to the Eastham Police Department prior to the start of retail operations.
4. Exterior lights shall be down shielded to reduce light spill and nuisances to adjacent properties.
5. Any changes to the project site plans dated 5/7/19 rev. 6/7/19 and the building plans dated 5/7/19 and 5/9/19 except those that are de minimis must be reviewed by the Planning Board. If the Board finds a change to be substantial, re-notice is necessary for a new hearing.
6. The applicant shall coordinate with the Eastham Police Department to review operational procedures and shall meet with the Police Department quarterly during the first year of operation to review parking and/or traffic concerns.
7. The applicant shall comply with the procedures described in the opening plan submitted as part of the Special Permit application as appendix E. Any adjustment or deviation from the operating plan shall require notification and agreement with the Town of Eastham through the Board of Selectmen or the Board's designee.
8. The applicant shall install "Do Not Enter" signs atop the existing "Stop" signs and also install "No Parking" signs along the north side of the entrance driveway.
9. The Special Permit shall have a term limited to the duration of Emerald Grove Inc.'s ownership and/or use of the premises for Retail Recreational Marijuana (RME) facility and Medical Marijuana Treatment Center (MMTC/DR) as licensed by the applicable Massachusetts licensing authority. In the event Emerald Grove Inc. seeks a new RME and/or RMMTC license or to transfer its existing license to a new owner or new location, the applicant shall file with the Planning Board for a new special permit or modification of existing special permit.

10. The Planning Board reserves the right to monitor the ongoing construction for compliance with the approved plan.

11. All exterior signage shall comply with the Eastham Sign Code.

A **MOTION** by Dwight Woodson to approve the conditions as stated, **seconded** by Craig Nightingale

In favor: Woodson, Autorino, Nightingale, Manas, Weston, Barker, Hobbs

Opposed: None

The **VOTE**: 7-0

Motion passed – Unanimous

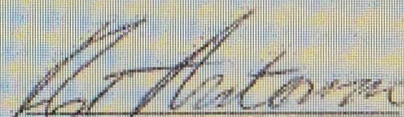
A **MOTION** by Peter Weston to **GRANT** Site Plan Approval – Special Permit for Case No. PB2019-11 to establish a Recreational Marijuana Establishment (RME) for marijuana retail and to modify the Special Permit granted under Case No. PB2018-14 to co-locate the Medical Marijuana Treatment Center Dispensary/Retail (MMTCDR) with the proposed recreational use, **seconded** by Dave Hobbs

In favor: Woodson, Autorino, Nightingale, Manas, Weston, Barker, Hobbs

Opposed: None

The **VOTE**: 7-0

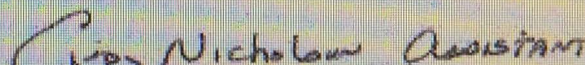
Motion passed – Unanimous



Art Autorino, Chair
Eastham Planning Board

THIS DECISION HAS BEEN FILED WITH THE TOWN CLERK. APPEALS TO THIS DECISION MAY BE MADE BY ANY PERSON AGGRIEVED PURSUANT TO M.G.L. CHAPTER 40A BY FILING SAID APPEAL WITH THE TOWN CLERK WITHIN TWENTY (20) DAYS OF THE DATE THIS DECISION WAS FILED.

Date Filed: June 28, 2019


Susanne Fischer, Town Clerk

This is to certify that twenty (20) days have elapsed after this decision was filed and no appeal has been filed.

Date: _____

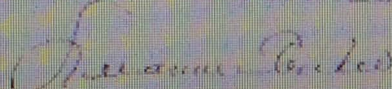
Susanne Fischer, Town Clerk

This is to certify an appeal has been filed within twenty (20) days of filing this decision.

Date: _____

Susanne Fischer, Town Clerk

A TRUE COPY ATTEST



TOWN CLERK
EASTHAM